

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

STEVEN VARGAS,

Plaintiff and Appellant,

v.

CHERYL BALZ, as City Clerk, etc., et al.,

Defendants and Respondents;

CITY OF BREA et al.,

Real Parties in Interest and
Respondents.

G047591

(Super. Ct. No. 30-2012-00585496)

ORDER DENYING PETITION FOR
REHEARING AND GRANTING IN
PART REQUESTS FOR
MODIFICATION; NO CHANGE IN
JUDGMENT

Appellant's request for modification is granted in part and denied in part. It is ordered that the opinion filed herein on February 21, 2014, be modified as follows:

1. On page 2, in the first paragraph of the Introduction section, beginning "The Brea City Clerk," delete the first three sentences and replace them with the following three new sentences:

The Brea City Clerk is responsible for transmitting to the Orange County Registrar of Voters for publication all arguments in favor of or in opposition to municipal

initiatives. In this case, we hold the city clerk does not have the authority to change an argument, or the accompanying statutorily required form statement identifying the author of the argument, to effectuate what the city clerk believed was the author's intent. Under Elections Code section 9600, the "form statement" is a required part of a ballot measure argument; we also refer to the form statement as the signature form in this opinion.

2. On page 3, in the first paragraph of the Statement of Facts and Procedural History section, beginning "The Brea Accountability Act," delete the last sentence and replace it with the following new sentence:

After the Orange County Registrar of Voters concluded both initiative petitions contained a sufficient number of valid signatures, the Brea City Council adopted resolution No. 2012-048, placing the measures on the next municipal election ballot.

3. On page 12, the first paragraph, beginning "The form for signatures," is deleted and replaced with the following new paragraph:

The form statement for signatures of the author or authors of arguments in favor of or in opposition to ballot measures, which was used by the City of Brea before the November 2012 election, was defective. The form did not include a space for the name of the organization on behalf of which it was being submitted, which is information required in an appropriate case by Elections Code section 9283.

These modifications do not effect a change in the judgment. To the extent appellant has petitioned for rehearing, the petition for rehearing is DENIED.

FYBEL, J.

WE CONCUR:

O'LEARY, P. J.

RYLAARSDAM, J.